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SUBJECT: Peru opposes inclusion of map in South Pacific Regional Fisheries Management Organization Convention

REF: 09 STATE 113317

¶1. (U) SUMMARY: Peru continues to oppose inclusion of the illustrative map found in the most recent proposed draft of the South Pacific Regional Fisheries Management Organization (SPRFMO) Convention, regardless of efforts to blur the portion of the maritime territory under contention between Chile and Peru. Expressing concern that inclusion of the map would incorporate it into Peruvian law, and in some manner undermine its position in boundary negotiations at The Hague, they underscored that the map must be removed, or reservation language must be accepted to exclude the map from application to Peru. With the exception of Article 5 language (Peru prefers the fifth draft version over the new one), the officials did not perceive other issues summarized in reftel to be of concern to Peru for finalization of the convention. Further, they expressed confidence that the Convention could be finalized at this sixth meeting.

¶2. (U) Econoff met late November 4 with Elsa Patricia Galarza Contreras, Vice Minister of Fisheries and her advisor Alfredo Garcia Mesinas. Earlier the same day, Econoffs met with Pablo Albarracin Borda, Counselor, Office of Maritime Sovereignty, Transborder Waters and Antarctic Affairs Advisor of the Ministry of Foreign Affairs.

REFERENCES TO INTERNATIONAL AGREEMENTS ARE ACCEPTABLE

¶3. (U) Albarracin expressed confidence that the SPRFMO will conclude during the Auckland session. He advised that references to the Convention on the Law of the Sea (UNCLOS) and the United Nations Fish Stocks Agreement (UNFSA) is not objectionable for Peru. Regarding these references, Garcia explained that the Government of Peru generally tries to avoid entering into agreement that refer to other accords to which they are not signatories. However, the references noted reftel appeared to be acceptable under the circumstances.

BUT A MAP IS UNACCEPTABLE

¶4. (U) However, Albarracin expressed strong concern over inclusion of the notational reference map of the SPRFMO Convention Area. He provided several reasons for Peru's objection to its inclusion:

a. Since the Convention will be incorporated into Peruvian law, the map itself will become legally binding and might affect the negotiations underway at The Hague between Peru and Chile.

b. He placed emphasis on Peru's observation that only two out of 16 RFMOs in existence incorporate a map in their conventions. One of the two, he added, is still currently under negotiation.

c. The lateness of the submission: The map has only been added after five prior meetings of countries forming the SFMO. (Comment: It seemed that Albarracin provided this as another indicator that a map is not required, since anything essential would have been incorporated in earlier versions. End Comment.)

¶15. (U) Although acknowledging the existence of the standard disclaimers about not recognizing the claims or positions of any Party regarding the legal status of maritime boundary claims, Albarracin described the inclusion of the map as unnecessary and particularly problematic for Peru.

¶16. (U) Garcia mirrored Albarracin's strong objection. Garcia described how the inclusion of the map was presented by the president at the last meeting despite prior agreement among the parties that the Convention would not include one. Several times during the meeting, Garcia referred to the map's introduction as a total "surprise." He expressed that a map simply could not be included in the agreement.

#### AN UNDESIRABLE WAY TO PERMIT THE MAP IN THE CONVENTION

¶17. (U) Albarracin summarized the reservation provisions of the draft Convention as currently prohibiting members from opting out of any portion of the Convention. He noted that this restriction adds significant value to the RFMO as it strengthens the utility of the organization. He advised, however, that if the map were to be included in the Convention, the reservation provisions must be modified to permit Peru to accept the Convention with the reservation that the map not apply to Peru.

¶18. (U) Albarracin also conveyed the Peru delegation's desire to see Article 5(c) revert back to the prior wording found in "Draft 5."

¶19. (U) COMMENT: Our interlocutors expressed confidence about the positive outcome of the Auckland meetings, adding their expectations that the language of the Convention may be finalized in Auckland. Based on statements made, they were clearly proud of Peru's role in forming the RFMO, with both describing Peru's role as a "key player." As for the map, they appear to have clearly articulated their desire to see it removed from the Convention.  
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